

INFORMATION BULLETIN #7

SALES TAX

MAY, 2002

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information, which is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Application of Sales Tax to Meals and Banquets

REFERENCES: IC 6-2.5-4-1, IC 6-2.5-5-20(c)(8)

I. General Information

Indiana sales tax generally applies to the selling price of meals, banquets, smorgasbords, and all other food and beverage services and must be collected by the person or organization preparing and/or serving the food to any organization, group, or individual with certain exceptions as provided in "III" below.

Sales tax must be collected whether the individual members are charged separately or the organization pays the entire cost in a single payment, and irrespective of the type of organization. Except as provided in paragraph "III" below, food and beverage services are never considered to be used for the purpose for which an organization might otherwise be granted sales tax exemption.

Gratuities are not taxable when they result from a voluntary, affirmative action on the part of the customer to reward good service. The sales tax does not apply to charges for serving or delivering food or beverages furnished, prepared, or served for consumption at a location, or on equipment provided by the retail merchant. However, this exclusion only applies if the charges for the serving or delivery are stated separately from the price of the food or beverages when the purchaser pays the charge.

Some counties have adopted a food and beverage tax which applies to the sale of meals and banquets. Caterers who cater in those counties must collect and remit the food and beverage tax on food and beverages sold in the adopting

counties. Please call the Revenue Department for a current listing of those counties which have a food and beverage tax.

II. Inclusion of Items Other Than Food Services in a Single Ticket Price

When events are held for which the price of the ticket or admission includes food services as well as entertainment and/or other intangible services, the entire selling price of the ticket is subject to the sales tax unless the price charged for food service is stated separately from the other items.

III. Exemption From Sales Tax

If such meals are prepared and served by a qualified nonprofit organization as a fund raising activity, the proceeds of which are used for the purpose for which such organization is granted exemption from sales tax, and such organization does not conduct selling activities of any nature on more than thirty (30) days in a calendar year, such organization is not required to collect sales tax.

If a qualified nonprofit organization purchases the meals and pays the entire cost in a single payment and the meals are sold by them individually at a higher price as a part of a bona fide fund raising project the proceeds of which are used for the purpose for which such organization is granted exemption from sales tax, such organization is not required to either pay or collect sales tax, if sales are not made on more than thirty (30) days in a year or does not conduct such activities for the sole purpose of raising funds to further the not-for-profit purpose of the organization, the sales tax applies to such food or beverage service.

The furnishing of school meals and meals furnished to college students by a college or university are exempt from sales tax.

More information concerning not-for-profit organizations and the furnishing of school meals can be obtained by contacting the Indiana Department of Revenue, Compliance Division.

IV. Door Prizes and Other Giveaway Merchandise

When such events or tickets include door prizes or other types of giveaway merchandise the organization or group must pay sales tax on the purchase price of such merchandise unless the event and/or organization comes within the exemption provided to not-for-profit organizations. The organization might be required to obtain a door prize or raffle license from the Charity Gaming Section of the Indiana Department of Revenue.

More information concerning prizes and other free merchandise can be obtained by contacting the Indiana Department of Revenue, Compliance Division.

A handwritten signature in black ink, reading "Kenneth L. Miller". The signature is written in a cursive style with a large, stylized "K" and "M".

Kenneth L. Miller
Commissioner